

**908 KAR 1:380. Licensing procedures and standards for the operation of alcohol and other drug abuse prevention programs.**

RELATES TO: KRS 222.211

STATUTORY AUTHORITY: KRS 194.050, 222.211, EO 2004-726

NECESSITY, FUNCTION, AND CONFORMITY: EO 2004-726, effective July 9, 2004, reorganized the Cabinet for Health Services and Family Services and placed the Department for Behavioral Health, Developmental and Intellectual Disabilities within the cabinet. KRS 194.050, 222.211 authorize the cabinet to regulate alcohol and other drug abuse agencies and programs. This administrative regulation provides licensure requirements and minimum standards for the operation of agencies providing alcohol and other drug abuse prevention.

Section 1. Definitions. (1) "Agency" means as defined in KRS 222.005(2).

(2) "Alcohol and other drug abuse" means as defined in KRS 222.005(12).

(3) "Cabinet" means as defined in KRS 222.005(3).

(4) "Certified chemical dependency prevention professional" means an individual who is recognized by the Kentucky Certification Board of Chemical Dependency Professionals, Inc.

(5) "Consumer" means the recipient of prevention services.

(6) "Legal entity" means a unit other than a natural person with a separate and distinct independent existence, having lawful standing in the Commonwealth of Kentucky to function legally, to sue or be sued and make decisions through agents, by means of a partnership agreement, articles of incorporation, legislative act, or executive order.

(7) "Outcome evaluation" means an assessment of ways in which an individual, system, or community participating in a prevention program has changed as a result of that program.

(8) "Prevention" means as defined in KRS 222.211(1).

(9) "Preventionist" means any individual or certified prevention professional who receives remuneration for an alcohol or other drug prevention program.

(10) "Process evaluation" means describing and documenting what actually was done, how much, when, for whom and by whom during the course of the program.

(11) "Program" means as defined in KRS 222.005(10).

Section 2. Licensing Procedures. (1) An agency receiving remuneration for any program shall not operate without first obtaining from the cabinet an alcohol and other drug abuse prevention license, unless the agency is exempted under KRS 222.003(1) and (2).

(2) Any agency operating a program without first obtaining a license shall be subject to the penalties as stated in KRS 222.990(2).

(3) An application for licensure or renewal of licensure shall be submitted in writing to the Cabinet for Health and Family Services, Office of Inspector General, 275 East Main Street, Frankfort, Kentucky 40621, and shall include at a minimum the agency name and mailing address.

(4) An application for licensure shall be accompanied by a fee of \$155. The license shall remain in effect for one (1) year from the date of issue and may be renewed. An application for renewal shall be accompanied by a fee of eighty (80) dollars.

(5) The license shall be conspicuously posted in a public area at the agency and shall indicate the year the license was issued or renewed.

(6) An application for licensure and renewal shall be processed as follows:

(a) The cabinet may conduct an on-site inspection of each agency to determine compliance with licensure standards;

(b) The agency shall provide representatives of the cabinet access during normal hours of operation to any document needed to complete the inspection;

(c) The cabinet shall notify the agency in writing of any violation of licensure standards identified during the inspection;

(d) The agency shall submit to the cabinet a written plan of correction within ten (10) days of receipt of the notice of violation. The plan of correction shall specify the corrective action to be taken and the date when each violation shall be corrected.

(7) Changes in agency status.

(a) Name change.

1. The agency shall notify the cabinet in writing within ten (10) calendar days of the effective date of change.

2. The cabinet may issue a new license for the remainder of the licensure period.

3. The agency shall submit a processing fee of twenty-five (25) dollars to the cabinet.

(b) Change of location. The agency shall not deliver services at a new location until an application for licensure accompanied by a fee of eighty (80) dollars is filed with the cabinet.

(c) Change of ownership. The new owner of the agency shall submit to the cabinet an application for licensure accompanied by a fee of eighty (80) dollars within ten (10) calendar days of the effective date of change.

(d) Discontinuing a program. The agency shall notify the cabinet in writing within ten (10) calendar days of the effective date of discontinuance.

(8) The certificate of licensure shall be the property of the cabinet and shall be returned by the agency to the cabinet upon closure or revocation of the license.

(9) The cabinet shall make available to the public a list of all licensed alcohol and other drug prevention agencies. The cabinet may issue revisions and corrections to this list as changes occur.

Section 3. Physical Plant. There shall be written housekeeping, sanitation and maintenance procedures which shall be followed at all times to ensure that the agency shall be clean and in good repair.

Section 4. Organization and Administration. (1) Governing body.

(a) An agency shall have a governing body with overall authority and responsibility for the agency's operation.

(b) The governing body shall have written documentation to show the agency is a legal entity in the Commonwealth of Kentucky by means of a partnership agreement, articles of incorporation, legislative act or executive order.

(c) The agency shall maintain written documentation to show that it has professional liability insurance in the minimum amount of \$100,000 per occurrence;

(d) The responsibilities of the governing body shall be specified in writing and shall include:

1. Adopting a mission statement that outlines the agency's purpose;

2. Adopting a conflict of interest policy to govern participation by a governing body member in a decision which may be influenced by a member's business interest;

3. Appointing an executive director who shall be responsible for the day-to-day operation of the agency;

4. Adopting an administrative structure and establishing a line of authority for all prevention programs operated by the agency;

5. Documenting administrative structure and lines of authority on an organizational chart, including the name of each current governing board member;

6. Adopting written policies and procedures to direct administrative and program functions of the agency to ensure that sufficient staff and resources are available for the successful delivery of programs;

7. Reviewing written prevention policies and procedures at least every two (2) years making

- needed revisions and incorporating relevant findings of the agency's quality assurance system;
8. Overseeing a system of financial management and accountability;
  9. Obtaining agency professional liability insurance in the amount of \$100,000 per occurrence at a minimum;
  10. Completing a minimum of two (2) hours of annual training on alcohol and other drug prevention for a prevention agency, and in a multiservice agency for that particular component of the board that provides oversight to the prevention program; and
  11. Meeting as a whole at least quarterly and keeping a written record demonstrating the ongoing discharge of its responsibilities.

(2) Staffing and staff qualifications.

(a) A preventionist who is actively involved in the development and implementation of a prevention program shall be certified by the Kentucky Certification Board for Prevention Professionals as a prevention professional or become a Kentucky certified prevention professional within twenty-four (24) months of the effective date of this administrative regulation or within twenty-four (24) months of employment whichever is longer.

(b) The agency shall designate one (1) or more individuals as prevention supervisor.

(c) A prevention supervisor shall meet at least one (1) of the following sets of qualifications:

1. A bachelors degree plus five (5) years of work experience in prevention or the related fields of health, social science, marketing, communications or education. Two (2) years of the work experience shall be in administration; or

2. A masters degree, with two (2) years of work experience in prevention administration or the related fields of health, social sciences, marketing, communications or education.

(d) Staff responsible for providing prevention services within the agency shall be clearly designated.

(e) The agency shall designate an individual as an ombudsman.

Section 5. Quality Assurance. (1) Staff and community volunteer development.

(a) The prevention agency shall establish a system of on-going staff development to include training and supervision of all prevention staff and community volunteers which shall:

1. Be outlined in the agency's policy and procedures manual; and

2. Support the attainment of the goals and objectives of the prevention program.

(b) The prevention agency shall make training available for administrative staff, all preventionists, and volunteers. The training shall be in an area that enables a volunteer or staff to carry out their expected job duties.

(c) Completion of training shall be documented in the volunteer and staff development files and shall identify the name of the training, clock hours earned and dates attended.

(2) Program quality assurance. The agency shall have written policy and procedures for assuring the quality of each program operated by the agency which shall include the following:

(a) Designation of an individual responsible for monitoring and evaluating the quality assurance activities;

(b) Description of the range of activities and services provided in each program;

(c) A statement of intended program outcomes and indicators of effectiveness; and

(d) Establishment of a mechanism and a schedule for the collection, organization and analysis of data to be used for the process evaluation and outcome evaluation of a program to determine the quality of the service.

Section 6. Personnel and Employment Practices. (1) The agency shall have written policies and procedures governing employment practices for agency employees and subcontractors which shall include:

(a) Protection against discrimination of any employee or prospective employee on the basis of gender, age, race, ethnicity, religious affiliation, and disability including prior history of alcohol or other drug abuse;

(b) Provisions for recruiting, selecting, promoting, disciplining and terminating staff;

(c) Procedures for confirming previous checks or conducting background checks from the Justice and Public Safety Cabinet for agency staff and subcontract employees working with minors to assure that there is no previous record of conviction related to abuse or molestation of children;

(d) Provision for the maintenance of personnel records for each staff member containing the following:

1. Application for employment;

2. Job specifications;

3. Written references;

4. Results of background check;

5. Documentation of all education, work experience, training and status of professional licensure, certification and registration;

6. Salary information;

7. Job performance appraisals;

8. Disciplinary action;

9. Commendations; and

10. Employee incident reports.

(e) Written job specifications for all positions identifying the qualifications, duties, reporting supervisor and positions supervised;

(f) Explanation of employee benefits, training and staff development opportunities, safety and work related injury procedures, employee grievance procedures, rules of conduct and compensation plan;

(g) Information on equal employment opportunities and affirmative action policies;

(h) A provision for ensuring an alcohol and drug free work place to include action to be taken when an employee is involved in the unlawful manufacture, distribution, possession or use of alcohol and any controlled substance at the agency;

(i) A provision for yearly job appraisal which includes an evaluation, based on objective criteria of each employee's performance in relation to their expected job duties;

(j) Ethical standards identifying acceptable employee conduct regarding consumer's rights;

(k) Conflict of interest policies governing dual relationships with other legal entities;

(l) Provisions to assure the confidentiality of personnel records;

(m) A procedure for providing an employee with access to that employee's personnel record; and

(n) Procedures for the storage and retention of personnel records.

(2) A staff member shall be given access to a copy of the agency's policies and procedures at the time of employment and shall be notified of a revision as it is made.

Section 7. Program Operation and Services. (1) Each program operated under the authority of the alcohol and other drug prevention license shall have a program operations manual containing the following:

(a) Philosophy;

(b) Mission statement;

(c) A method for determining the needs of the population to be served and a program provided in response to an identified need;

(d) A method for tailoring a program to the characteristics of a specific target audience including age, gender, drug use patterns, racial, ethnic and cultural heritage;

(e) A method to be used to review an activity plan, information, material and curricula prior to use

for accuracy, potential effectiveness and appropriateness in influencing the alcohol and drug use behavior of the target audience;

(f) A method for soliciting input and involving the community or identified target audience in planning;

(g) A method for making or receiving a prevention consumer referral within or outside the agency;

(h) A method for referring or delivering a service to a consumer having special speech, language, visual or hearing needs;

(i) A method for determining an individual's or agency's suitability for participation in the prevention program; and

(j) Policies and procedures for setting and collecting fees.

(2) The prevention agency shall maintain reports and records documenting the following:

(a) Results of a needs assessment;

(b) Collaboration with a community or other agency;

(c) Material and curricula reviewed;

(d) Program activity or service delivered;

(e) Case management information pertaining to early intervention and prevention programs directed at a specific audience including the following:

1. Screening and assessment results;

2. A prevention service provided;

3. Research data showing effectiveness of a prevention program used for a specific target audience;

(f) A background check conducted on a volunteer working with a minor to assure that there is no previous record of conviction related to the abuse or molestation of minors;

(g) Identification of which of the following prevention strategies was employed:

1. An alternative which provides for the participation of a target population in an activity that excludes alcohol and other drug use. Methods shall include involving agency and community members in the design and provision of constructive and healthy activities that offset the attraction to or otherwise meets the needs usually filled by alcohol and other drugs;

2. Community-based process which aims to enhance the ability of a community member to identify a problem or resource and to appropriately select the prevention strategy that will more effectively impact the behavior relating to alcohol and other drug use. Methods shall include involving the community in planning, organizing, and implementing prevention programs through interagency collaboration, coalition building, and networking;

3. Consultation which involves an interaction and contractual relationship between two (2) or more people wherein one who has special skills or expertise in accomplishing a specific goal provides one who does not have the same skills or expertise, guidance in the mutual accomplishment of that goal;

4. Education which involves two (2) way communication and interaction between the educator or facilitator and the participant. The method shall include direct training, training of trainers and training of impactors. This strategy consists of a well-defined, structured learning process which involves both knowledge and skill development. Educational programs seek to accomplish the following:

a. Motivate an individual to make a healthy choice about alcohol and other drug use;

b. Help him develop the competency needed to make a choice;

c. Prepare him to develop and implement a prevention program in a particular setting.

5. Public and social policy change which establishes or changes written or unwritten community standards, codes, and attitudes, thereby influencing incidence and prevalence of alcohol and other drug use problems in the general population and creating an environment more conducive to prevention. Methods shall include changing laws and community standards to restrict availability and access, price increases and community wide actions;

6. Information dissemination which is characterized by limited contact, one (1) way

communication of information from the source to the audience. Methods shall include identification, collection and dissemination of resource materials, media communication, public speaking and networking activities. Information dissemination programs provide the following:

a. Awareness and knowledge of the nature and extent of alcohol and other drug use, abuse and addiction;

b. The effect of alcohol or a drug on an individual, family or community;

c. Information to increase the perception of risk; and

d. Identification of an available prevention program or service.

7. Problem identification and referral which is designed to identify a person who is beginning to experience an alcohol or other drug problem or those for whom the risk of developing a problem is particularly high. Methods shall include screening, intensive preventive education, or referral for a clinical assessment;

(h) Documentation of a consumer referral made and a source used within or outside the agency;

(i) Process and outcome evaluation results;

(j) A follow-up plan; and

(k) Fee assessment and collection.

Section 8. Consumer Rights. An agency licensed to provide an alcohol or other drug prevention program shall have written policies and procedures for ensuring the rights of the consumer which shall include:

(1) An assurance that there shall be no unlawful discrimination in determining eligibility for admission to a prevention program;

(2) A statement of consumer rights posted in the agency with the name, address and telephone number of the agency's ombudsman;

(3) Assurance of the confidentiality of consumer's alcohol, tobacco, and other drug issues; and

(4) The grievance procedure posted in the agency which shall include at a minimum:

(a) The time frame for reviewing and responding to a consumer complaint;

(b) The requirement for the documentation of a grievance in each consumer record and in a central agency incident file; and

(c) The requirement of referring to the appropriate authority an allegation of abuse or neglect in accordance with:

1. KRS 209.030 regarding the abuse or neglect of an adult; and

2. KRS 620.030 regarding the abuse or neglect of a minor.

Section 9. Complaints. (1) A suspected violation of a licensure standard shall be reported to the cabinet.

(2) The complainant and information related to a suspected violation shall be kept confidential and shall not be disclosed publicly during an investigation. Once the investigation is complete, disclosure of the information shall be subject to the provision of KRS 61.870 to 61.884.

(3) A complaint received by the cabinet shall be processed according to the following procedures:

(a) The cabinet may conduct an on-site inspection to determine if a violation of a licensure standard has occurred; and

(b) The cabinet may conduct an audit of the agency's financial records in accordance with generally accepted government auditing standards.

Section 10. Revocation. (1) A violation of a licensure standard may result in the revocation of a license.

(2) The following violations shall result in the revocation of a license:

(a) A violation creating an immediate danger to the prevention consumer;

- (b) Fraud in obtaining a license or in connection with a service provided;
- (c) Gross negligence, misconduct or violation of the ethics code of the Kentucky chemical dependency certification board which results in revocation of the prevention professional credential;
- (d) A conviction of an agency preventionist or volunteer of a crime related to the abuse, neglect or exploitation of a child or an adult.

Section 11. Penalties. (1) Denial or revocation of a license.

(a) Plan of correction. If an agency fails to submit an acceptable plan of correction within ten (10) calendar days from the date of a notice of violation, the cabinet shall notify the agency, in accordance with Section 12 of this administrative regulation, that the license may be denied thirty (30) calendar days after the date of the notice of denial or suspension unless:

1. The agency submits an acceptable plan of correction to the cabinet;
2. The agency requests a hearing in accordance with Section 12 of this administrative regulation;

or

3. The agency notifies the cabinet in writing that the application for licensure is withdrawn.

(b) Denial of an application for licensure. When an application for licensure is denied, the legal entity named in the application may reapply for a license in accordance with Section 2 of this administrative regulation after a period of:

1. One (1) year from the date of denial; or
2. Thirty (30) days from the date of application for licensure was withdrawn by the agency.

(2) Reapplication. The legal entity named in the application may reapply for a license in accordance with Section 2 of this administrative regulation after a period of one (1) year from the date of revocation.

Section 12. Appeals. (1) If the cabinet takes action to deny or revoke an agency license, the cabinet shall notify the agency in writing stating the reason for the adverse action and the agency's right to appeal in accordance with KRS 222.231(6).

(2) If the agency believes an action by the cabinet is unfair, without reason, or unwarranted, the agency may appeal the action in writing to the Secretary, Cabinet for Health and Family Services, 4th Floor, 275 East Main Street, Frankfort, Kentucky 40621, within thirty (30) calendar days after receipt of the notice of action from the cabinet.

(3) Upon receipt of the appeal, the secretary, or designee, shall issue a notice of hearing no later than twenty (20) days before the date of the hearing. The notice of hearing shall comply with KRS 13B.050. The secretary shall appoint a hearing officer to conduct the hearing in accordance with KRS Chapter 13B.

(4) The hearing officer shall issue a recommended decision in accordance with KRS 13B.110. Upon receipt of the recommended order and following consideration of any exceptions filed pursuant to KRS 13B.110(4), the secretary shall enter a final decision pursuant to KRS 13B.120.

(5) An agency that continues to operate after the closing date established by the secretary, or designee, shall be subject to legal action by the cabinet as provided by law. (24 Ky.R. 1824; Am. 2131; 2387; eff. 5-18-1998; TAm eff. 4-27-2016.)